

RECEIVED  
CENTRAL FAX CENTER

OCT 29 2004

P.O. Box 1219

SANDY, UTAH 84091-1219

USA

TELEPHONE 1.801.566.6633

FACSIMILE 1.801.566.6673

FACSIMILE 1.801.566.0750

FACSIMILE MEMORANDUM

**THORPE  
NORTH &  
WESTERN L.L.P.**  
SINCE 1979  
THE TEAM APPROACH TO PREMIER PERFORMANCE ®

DATE: OCTOBER 29, 2004  
TO: PATENT & TRADEMARK OFFICE  
FROM: DAVID W. OSBORNE  
OUR DOCKET NUMBER: T8907.CON  
SUBJECT: RESUBMISSION OF POWER OF ATTORNEY

PAGE 1 OF: 45  
FACSIMILE NUMBER (703) 872-9306  
TRANSMITTED BY: JULIA SEARGEANT

IF YOU DO NOT RECEIVE THE COMPLETE DOCUMENT, PLEASE NOTIFY THE SENDER AS SOON AS POSSIBLE.

REMARKS:

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

SIR/MADAM:

TRANSMITTED HERewith IS A RESUBMITTED COPY OF THE POWER OF ATTORNEY ASSOCIATED WITH THORPE NORTH & WESTERN, LLP CUSTOMER No. 20,551. THIS COMPLIES WITH THE REVISED POWER OF ATTORNEY PRACTICE - 37 CFR 1.32 EFFECTIVE ON AND AFTER JUNE 25, 2004. PLEASE NOTE THAT DAVID W. OSBORNE, REG. No. 44,989, IS THE ATTORNEY OF RECORD.

SINCERELY,



DAVID W. OSBORNE  
THORPE NORTH & WESTERN  
CUSTOMER NO. 20,551  
REG. NO. 44,989



THE PAGES THAT FOLLOW MAY CONTAIN SENSITIVE, PRIVILEGED OR CONFIDENTIAL INFORMATION INTENDED SOLELY FOR THE ADDRESSEE NAMED ABOVE. IF YOU RECEIVE THIS MESSAGE AND ARE NOT THE AGENT OR EMPLOYEE OF THE ADDRESSEE, AND HAVE THEREFORE BEEN SENT OR RECEIVED THIS COMMUNICATION IN ERROR, YOU ARE ASKED NOT TO DISSEMINATE OR COPY ANY OF THE ATTACHED AND ARE TO NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE. PLEASE ALSO RETURN THE ORIGINAL MESSAGE TO THE SENDER BY MAIL. THANK YOU.

PTO/SB/21 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission


4

Application Number	10/808,669
Filing Date	03/22/2004
First Named Inventor	Tracy Gibbs
Art Unit	1651
Examiner Name	
Attorney Docket Number	T8907.CON

**RECEIVED  
CENTRAL FAX CENTER****OCT 29 2004****ENCLOSURES (Check all that apply)**

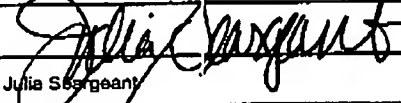
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input checked="" type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<b>Remarks</b>	

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	THORPE NORTH & WESTERN		
Signature			
Printed name	David W. Osborne		
Date	10/29/2004	Reg. No.	44,989

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Julia Seargeant	Date	10/29/2004

This collection of information is required by 37 CFR 1.6. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT APPLICATION NO.  
ATTORNEY DOCKET NO. T8907.CON

### **DECLARATION, POWER OF ATTORNEY AND PETITION**

As a below named inventor, I hereby declare: that my residence, post office address, and citizenship are as stated below next to my name; that I verily believe I am the original, first, and sole inventor Tracy Gibbs of the subject matter which is claimed and for which a patent is sought on the invention entitled NUTRIENT ABSORPTION ENHANCING COMPOSITIONS AND METHODS, the specification of which was filed on 03/22/2004, as THORPE NORTH & WESTERN, LLP Docket No. T8907.CON, and given United States Application No. 10/806,669, and that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above; and that I acknowledge the duty to disclose information which is material to patentability as defined in § 1.56(a) of Title 37 of the Code of Federal Regulations.

I hereby claim the benefit of the earlier filed patent application filed in the United States Patent and Trademark Office as application no. 09/989,980 filed on 11/20/2001 ABN; and, insofar as the subject matter of each of the claims of this application is not disclosed in the earlier filed pending application in the manner provided by the first paragraph of Section 112 of Title 35 of the United States code, we acknowledge the duty to disclose material information, as defined in Section 1.56(a) of Title 37 of the Code of Federal Regulations, which occurred between the filing date of the earlier filed application and the filing date of this application.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by

fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

I hereby appoint as its attorneys and/or patent agents the law firm of THORPE NORTH & WESTERN, LLP, having a business address of 8180 South 700 East, Suite 200, Sandy, Utah 84070, and VAUGHN W. NORTH, Registration No. 27,930; M. WAYNE WESTERN, Registration No. 22,788; GARRON M. HOBSON, Registration No. 41,073; PETER M. DE JONGE, Registration No. 47,521; GARY P. OAKESON, Registration No. 44,266; DAVID W. OSBORNE, Registration No. 44,989; JASON R. JONES, Registration No. 51,008; ERIK S. ERICKSEN, Registration No. 48,954; and TODD B. ALDER, Registration No. 54,598; all with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

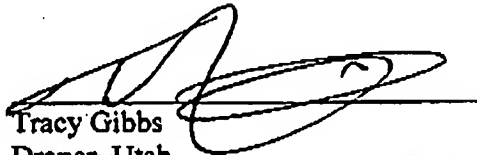
All correspondence concerning this application should be directed to:

**M. Wayne Western  
THORPE NORTH & WESTERN, LLP  
P.O. Box 1219  
Customer No. 20,551  
Sandy, Utah 84091-1219  
Telephone: (801) 566-6633  
Facsimile: (801) 566-0750**

Wherefore, I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, declaration, power of attorney, and this petition.

Signed at Sandy, UT (City, State), this 5<sup>th</sup> day of Aug., 2004.

INVENTOR(S):



Residence: (City, State):

Citizenship:

Post Office Address:

Tracy Gibbs  
Draper, Utah

United States of America

11576 South State Street, #1101

Draper, Utah 84020